

DOCKET FILE COPY ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In re:

Public Notice )  
New FM New Station and Major Modification )  
Application Filing Window for New and )  
Certain Pending Proposals )  
VA-07-1613 )

FILED/ACCEPTED

JUL 17 2007

Federal Communications Commission  
Office of the Secretary

JUL 16 2 3 15

To: The Secretary, Federal Communications Commission  
Attn: Chief, Media Bureau

**PETITION TO LIMIT THE NUMBER OF NEW NCE FM APPLICATIONS TO  
FIFTEEN PER APPLICANT FOR THE OCTOBER 12 - 19, 2007 WINDOW**

Radio Training Network, Inc. ("RTN");<sup>1</sup> Illinois Bible Institute ("IBI");<sup>2</sup> Cedar Cove Broadcasting, Inc. ("Cedar Cove");<sup>3</sup> and KSBJ Educational Foundation ("KSBJ")<sup>4</sup> (together "Joint Petitioners") jointly file this Petition seeking to limit the number of applications for new facilities to no more than fifteen that may be filed by any one applicant during the upcoming noncommercial filing window in October 2007. Each of the Joint Petitioners is a noncommercial educational

<sup>1</sup>Licensee of KWND(FM), Springfield, MO; WAFJ(FM), Belvedere, SC; WAQV(FM), Crystal River, FL; WHIJ(FM), Ocala, FL; WIZB(FM), Abbeville, AL; WJIS(FM), Brandenton, FL; WJLF(FM), Gainesville, FL; WLFJ-FM, Greenville, SC; WLFS(FM), Port Wentworth, GA; WLPJ(FM), New Port Richey, FL; WMBJ(FM), Murrells Inlet, SC; WRTP(FM) Roanoke Rapids, NC, and permittee of WJFH(FM), Sebring, FL and 990402ME, Frostproof, FL.

<sup>2</sup>Licensee of WBGL(FM), Champaign, IL; WBMV(FM), Mount Vernon, IL; WCIC(FM), Pekin, IL; WCRT-FM, Terre Haute, IN; WIBI(FM), Carlinville, IL; WNLD(FM), Decatur, IL; WPRC(FM), Princeton, IL; WSCT(FM), Springfield, IL; WTSG(FM), Carlinville, IL; WVNLFM), Vandalia, IL, and permittee of 960905MA Charleston, IL.

<sup>3</sup>Licensee of KEZF(FM), Eaton, CO.

<sup>4</sup>Licensee of KSBJ(FM), Humble, TX and KZBJ(FM), Bay City, TX.

No. of Copies rec'd 091  
List ABCDE

broadcaster that currently contemplates filing one or more applications for new stations.

On April 4, 2007, the Commission released a public notice, *Media Bureau Announces NCE FM New Station and Major Modification Application Filing Window for New and Certain Pending Proposals; Window Open October 12, 2007*. In this public notice, the Media Bureau announced a filing window for applications for new noncommercial educational stations and major modification applications. The window is scheduled to open October 12, 2007, and will close on October 19, 2007. The window is limited to new applications and major change applications in the FM reserved band (channels 201-220). In its public notice, the Bureau stated, "The Bureau will provide additional information about filing procedures and requirements by public notice during the next several months. Interested applicants may monitor the Audio Division webpage for information and developments."

Joint Petitioners very much support the long awaited window set to open in October but strongly believe that it would be in the public interest to limit the number of new applications filed by any one entity to no more than fifteen during the upcoming window.<sup>5</sup> There are strong public interest benefits in support of the requested limit. Without imposing a reasonable limit, especially after a freeze for the past seven years since April 2000 in filing new or major modification applications, the Commission is highly likely to be inundated with applications. If past precedent is any indicator, the prospect of multiple thousands of applications being filed during the limited window is a very real possibility. During the last translator window, for instance, over thirteen thousand applications were filed. As it turns out, many of those applications were filed by a small

---

<sup>5</sup>Joint Petitioners are not proposing any limit on the number of major modification applications submitted. Major modifications entail modification of existing facilities and, therefore, the likelihood of speculative mass filings is far less of a likelihood.

group of entities. Radio Assist Ministries filed over 2,400 applications. Edgewater Broadcasting filed over 1,700 applications. *The deluge in applications resulted in processing delays, and in all likelihood, spectrum warehousing.*

A limit on the number of new applications by any one entity would make it far more likely that the Commission would not be overwhelmed with applications and therefore be able to process in an orderly, relatively expeditious manner the applications that are filed. Without a deluge of applications, the Commission will be able to determine those applications which are mutually exclusive and those that are not much more quickly, advancing the public service interest in allowing applicants to get stations built and on the air more quickly. Furthermore, the ability to process the applications in this next coming window on a more expedited basis will lessen the chance that it will be another seven year wait before the next window opens. It would also lessen the likelihood of "land rushes" for spectrum when a window does open because of the likelihood of another window opening in a reasonable time frame.

The proposed limit of fifteen applications per entity would also be a minimum burden on potential applicants. Most applicants, if past windows for other services are any indication, will file far less than fifteen applications. Only that small group of mass filers will be limited or effected by the proposed cap.

The Commission has often placed restrictions on applicants limiting the number of applications filed in order to advance public interest policies. For example, in proposing rules to expedite the digital LPTV conversion, the Commission restricted applications noting, "For example, when Congress adopted Section 309(j), it provided that the Commission should continue to avoid or reduce the likelihood of mutual exclusivity among applications when the Commission finds that

it is in the public interest to do so. The procedure we address here is premised on a desire to limit the number of mutually exclusive digital LPTV applications to expedite the low power digital transition." *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules of Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, 18 FCC Rcd 18365 at ¶102 (2003). In adopting the low power FM rules, the Commission limited the number of stations that could be owned by any one entity and, hence, the number of applications that could be filed in an effort to promote local ownership. For the first two years of LPFM service, any one entity could only own one LPFM station. *Creation of Low Power Radio Service*, 15 FCC Rcd 2205 at ¶39 (2000). See also *In the Matter of the Commission's Space Station Licensing Rules*, 18 FCC Rcd 10760 at ¶100 (2003).

Adoption of this proposal to limit the number of new applications filed is a procedural matter and, therefore, not subject to comment and notice provisions. The Commission has specifically concluded that *Ashbacker*<sup>6</sup> did not preclude the Commission from adopting rules that foreclose the filing of competing applications where doing so serves the public interest. "In the *One-Step Order*, the Commission explained that 'in *Ashbacker* . . . the Court . . . noted that the Commission can promulgate rules limiting eligibility to apply for a channel when such action promotes the public interest, convenience, and necessity.'" *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 20 FCC Rcd 11169 at ¶24 (2005). The same rationale is equally applicable here.

It is respectfully requested, therefore, that the Commission issue a further public notice limiting the number of applications that can be filed by any entity to no more than fifteen

---

<sup>6</sup>*Ashbacker Radio Corp. v. Federal Communications Commission*, 326 U.S. 327 (1945).

applications.<sup>7</sup>

Respectfully submitted,

**CEDAR COVE BROADCASTING, INC.  
ILLINOIS BIBLE INSTITUTE  
KSBJ EDUCATIONAL FOUNDATION  
RADIO TRAINING NETWORK, INC.**

By:   
A. Wray Fitch III

Gammon & Grange, P.C.  
8280 Greensboro Drive, 7th Floor  
McLean, VA 22102-3807  
(703) 761-5013

July 17, 2007

---

<sup>7</sup>A separate entity shall not be deemed separate if the majority of board members of one entity also serve as the majority of board members of another entity. Where the majority of board members of two different entities are the same, these entities shall not be deemed different entities.

## CERTIFICATE OF SERVICE

I, Stephanie Patton, in the law offices of Gammon & Grange, P.C., do hereby certify that I have sent copies of the foregoing PETITION TO LIMIT THE NUMBER OF NEW NCE FM APPLICATIONS TO FIFTEEN PER APPLICANT FOR THE OCTOBER 12 - 19, 2007 WINDOW this 17th day of July, 2007, by postage paid first class mail to the following:

Peter Doyle, Chief  
Audio Division  
Media Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Stephanie Patton